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Appellate Court Report

Note: Terms appearing in CAPS are defined in the appellate court glossaries in the Appendix. Generally, CAPS are used upon first reference by court level (Courts of Appeal and the California Supreme Court).

Our state appellate court system is made up of the California Supreme Court and the Courts of Appeal—all of which are funded entirely by the state. In fiscal year 1995–96, these courts together reported 30,548 filings—a record high.

The Supreme Court is the state's highest court; its decisions are binding on all of California's state courts. The seven Supreme Court justices—one Chief Justice and six associate justices—are appointed by the Governor and confirmed by the Commission on Judicial Appointments. The high court conducts regular sessions in Los Angeles, Sacramento, and San Francisco and sometimes holds special sessions in other locations.

The Courts of Appeal are California's intermediate courts of review. There are six APPELLATE DISTRICTS in California (*see map on page 55*), which comprise nine court sites and 18 DIVISIONS. As of January 1, 1997, the Courts of Appeal were provided some assistance with their burgeoning workload in the form of five new judgeships—the



The California Supreme Court was based in Sacramento from the mid-1850s until the early 1870s. During most of that period, the court was located in the B.F. Hastings Building, which is depicted above.

first new judgeships in nearly a decade—bringing the total number of AUTHORIZED APPELLATE JUSTICES to 93.

The role of the appellate courts is to ensure that the law is interpreted and applied correctly and uniformly and to provide for the ongoing development of the law. This role is accomplished through written opinions that guide lower courts in applying the law and, when necessary, provide interpretation of the law. Toward this end, the appellate courts analyze the legal issues in each APPEAL brought before them and prepare a written opinion that conveys the reasons for the court's decision. Many factors—including the complexity of the issues and whether the applicable law is well established or must be interpreted—affect how much time is required to handle each case.

Supreme Court of California

The primary functions of the state's highest court are to decide cases raising important issues and to maintain uniformity of the law throughout California. The Supreme Court is the court of last resort on questions of state law, and performs its functions by analyzing applicable constitutional provisions, statutes, and case PRECEDENT, and applying the law to the cases in which it has granted review.

Under the state Constitution, the Supreme Court is required to review all death penalty judgments from the superior courts (these cases are automatically appealed) and is given discretion as to which noncapital cases to accept for review. The court has discretion to grant review of decisions of the Courts of Appeal, the State Bar Court (regarding discipline of attorneys), the Public Utilities Commission (concerning, for example, utility rates), and the Commission on Judicial Performance (involving discipline of judges).

In addition, the Supreme Court has ORIGINAL JURISDICTION in proceedings for "extraordinary relief," which include petitions seeking WRITS of CERTIORARI, MANDATE (or MANDAMUS), PROHIBITION, and HABEAS CORPUS. The majority of the ORIGINAL PROCEEDINGS filed with the Supreme Court are petitions seeking issuance of a writ of habeas corpus.

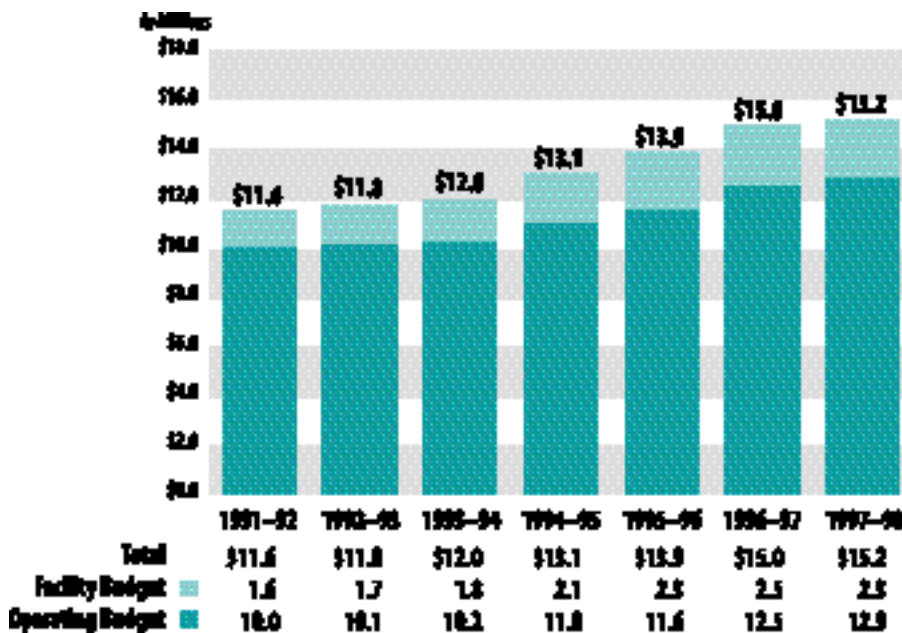
Generally, the court accepts for review cases in which there is an important question of law or a conflict in the decisions of the Courts of Appeal. A substantial portion of time is spent deciding which cases the Supreme Court will accept. Once review is granted, the court's published decisions (in the form of written OPINIONS) determine the legal issues raised and serve to guide the lower courts in applying the law. Decisions signed by a majority of the Supreme Court justices are binding on all appellate, superior, and municipal courts.

Figure 3.1

Supreme Court Funding History

Fiscal Years 1991–92 to 1997–98 (Proposed)

Excludes Funding for Court-Appointed Counsel



Supreme Court: Case Process

The California Supreme Court has discretion to decide whether it will accept any particular case on the merits, except direct appeals in death penalty cases (see *next page*). Generally, a case follows the process described below through the Supreme Court:

WEEKLY CONFERENCE

COURT'S DISCRETION WHETHER TO ACCEPT A CASE

A petition for discretionary review filed with the court is scheduled for one of the court's weekly Wednesday conferences. The court has 60 days from the filing of the petition to decide whether to accept a case (and may extend that period by up to 30 additional days). At the time the conference date is selected, the matter is assigned by the Calendar Coordinator to one of the central staffs for preparation of a CONFERENCE MEMORANDUM. The justices use the memoranda to assist them in assessing the merits of the cases and the importance of the issues involved.

AFTER CASE ACCEPTED

CALENDAR MEMORANDUM AND ORAL ARGUMENT

In general, after a case has been accepted for review, the Chief Justice assigns it to one of the justices who voted to grant review for preparation of a CALENDAR MEMORANDUM. When a majority of the justices indicate that they tentatively concur in the calendar memorandum or in a revised or new calendar memorandum, the Chief Justice sets the matter for ORAL ARGUMENT. (The Supreme Court hears oral argument during one week each month—from September through June.) A cause is "submitted" for decision after oral argument or, if post-argument BRIEFS are permitted, at the time all briefing is complete. Generally, the court must issue its decision within 90 days after submission.

AFTER ORAL ARGUMENT

ASSIGNMENT, PREPARATION, AND CIRCULATION OF PROPOSED OPINIONS

A conference is held on each case following oral argument. At this conference, the justices take a tentative vote on the case. The justice assigned by the Chief Justice to write the majority opinion then prepares and circulates the proposed majority opinion. All the justices carefully review all circulated opinions and are given time to write and circulate dissenting or concurring opinions. Changes are often made to the original versions of circulated opinions before they are filed.

FINAL STEP

FILING THE COURT'S DECISION

After completion of the deliberation and drafting process and after all justices have subscribed to the majority or circulated timely concurring or dissenting opinions, a NOTICE OF FORTHCOMING FILING is posted in the Clerk's Office; the opinion is filed thereafter. A decision does not become final until 30 days after the opinion has been filed. The court has discretion whether to grant a timely petition for rehearing or to modify its decision.



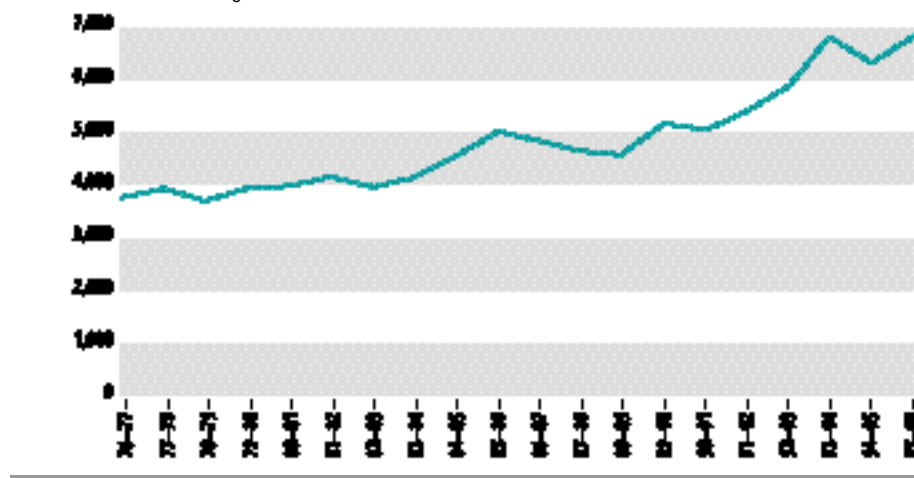
WORKLOAD SUMMARY

The California Supreme Court reviews petitions arising from the legal decisions issued by 93 Court of Appeal justices (which arise out of the cases handled by 1,480 trial judges). The size of the Supreme Court—seven justices—has remained the same since 1879. Over the years, the cases brought before the state’s highest court have grown more numerous, diverse, and complex.

Figure 3.2

Supreme Court Filings

Fiscal Years 1976–77 through 1995–96



Filings in the Supreme Court during 1995–96 reached an all-time high of 6,838, representing an 8 percent increase over the prior year. Total filings in the high court have increased an astonishing 87 percent during the last two decades. Twenty-five years ago, in 1971–72, the Supreme Court recorded only 3,238 filings—fewer than half as many filings as in the 1995–96 fiscal year.

The majority of the Supreme Court’s filings in 1995–96 were PETITIONS FOR REVIEW arising from decisions of the Courts of Appeal (4,657), a 9 percent increase over the prior year. Much of the 1995–96 increase in filings is attributable to a 17 percent jump in petitions for review of CRIMINAL APPEALS. A significant portion of the increase in

these petitions may be attributable to the implementation of the “THREE STRIKES” LAW.

In 1995–96, the high court also received 1,803 original proceedings—petitions for writs within the Supreme Court’s original jurisdiction, 75 percent of which sought habeas corpus relief—a 15 percent increase from 1,564 filings during the prior year. There were 30 death penalty appeals filed as well as 33 petitions for writs of habeas corpus related to capital appeals. The court issued 102 written opinions in 1995–96, representing a 5 percent increase over the 97 opinions issued the previous fiscal year.

CHALLENGING CASELOAD

The Supreme Court accepts for review only those matters that pose important issues of statewide concern, including cases that have elicited conflicting responses from the Courts of Appeal. The CIVIL APPEALS heard by the high court raise issues in diverse areas of law, such as TORTS, insurance coverage, civil rights, environmental, domestic relations, and PROBATE. Criminal appeals heard by the court typically involve interpretation of complex statutory provisions and the application of federal and state constitutional provisions, and arise in areas such as sentencing, evidentiary rulings, and procedural requirements.

DEATH PENALTY CASES

Death penalty appeals (also called automatic appeals or capital appeals) come to the Supreme Court automatically from a judgment of death rendered in superior court. Death penalty appeals demand a significant and substantial share of the court’s resources. Briefs are often 300 pages or longer, and trial records can range up to 80,000 pages. Capital cases are complex, presenting multiple legal issues (typically 50 or more per case) and numerous motions that require the court’s attention even before briefing is completed.

In addition to automatic appeals, death penalty defendants generally file one or more related habeas corpus petitions with the Supreme Court.

Typical issues raised include incompetence of trial counsel, juror misconduct, or recently discovered evidence. Habeas corpus petitions frequently raise 50 or more issues and are accompanied by several volumes of exhibits. The review demanded by these complex matters often does not result in an opinion. Nevertheless, two habeas corpus petitions in capital cases, on average, consume as much court time as one average noncapital opinion.

In 1995–96, 30 death penalty appeals were filed, the same number as the previous year. Petitions for writs of habeas corpus related to death penalty appeals rose 14 percent from the prior fiscal year—from 29 to 33.

The Supreme Court disposed of 36 habeas corpus petitions related to death penalty appeals in 1995–96. The court has averaged 32 death penalty–related habeas corpus dispositions per fiscal year from 1991–92 through 1995–96.

Reducing delays in capital appeals

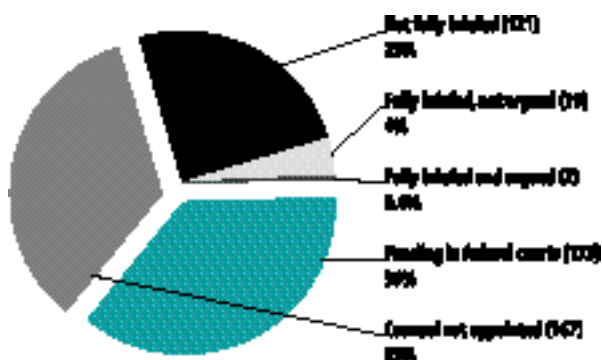
The Supreme Court has long been concerned about delays in handling death penalty appeals. Chief Justice George has stated that “delay in these cases causes confusion and frustration among Californians and is unfair to everyone involved—victims and their families, defendants, and the public at large.” There are several reasons why processing these cases on appeal has taken an extended period of time. The primary cause has been difficulty in recruiting qualified counsel to represent indigent appellants (*see also “Counsel for Indigents: Constitutional Mandate,” page 62*). Another factor contributing to delays in these cases is the length of time consumed in certifying the record on appeal.

Recruiting qualified counsel for indigents on death row continues to be a pressing concern for the Supreme Court. Because of the complex nature of such cases, it is critical that the growing number of indigent appellants have experienced attorneys to provide effective assistance.

Figure 3.3

Status of Pending Capital Appeals in California

484 defendants on death row as of December 1, 1997



Death Row

- Total number of men and women waiting on death row as of December 1, 1997: 484 (476 men and 8 women).
- Total capital appeals pending in California as of December 1, 1997: 309.
Note: Other capital proceedings are pending in federal courts for 175 defendants; the California Supreme Court has affirmed judgments of death for these defendants, but they still have pending federal cases—usually habeas corpus proceedings.

The 309 pending state capital appeals are divided into the following two categories:

1. In 167 cases, counsel has not been appointed and thus appeals have not commenced.
2. In 142 cases, counsel has been appointed. In 121 of these cases, the appeal is not fully briefed. In 21 of these cases, the appeal has been fully briefed. In two cases, the appeal has been fully briefed and argued.



As of December 1, 1997, there were 484 defendants on death row (476 men and 8 women), of whom 167 do not have counsel (*see previous page*). In 1996, counsel were appointed for 18 death row inmates. There is currently about a three-to-four-year delay in making appointments of counsel in capital appeals because of the lack of lawyers qualified, willing, and able to take these cases.

A number of innovative steps have been taken over the past few years to attract additional qualified counsel, including the adoption in 1994 of an alternative flat fee option to provide easier processing and predictability of fees. This alternative payment program reduces the administrative burdens on appointed counsel and helps eliminate payment delays.

In 1995, the Supreme Court released a training video on death penalty appeal representation prepared by some of California's most knowledgeable and accomplished criminal appellate practitioners. That same year, the Legislature increased compensation for counsel in capital cases from \$75 to \$95 per allowable hour. Effective January 1, 1997, the hourly rate was increased to \$98.

Perhaps the most significant change occurred in the Fall of 1997, with enactment of Senate Bill 513 (Lockyer and Pacheco) (Stats. 1997, ch. 869), designed to enhance the system of representation in capital cases by reducing delays in the appointment of counsel and in the processing of these cases. Effective January 1, 1998, this legislation expands the existing Office of the State Public Defender by 15 new attorneys and directs that office to focus exclusively on direct appeals; creates the California Habeas Resource Center, which will represent inmates in state and federal capital habeas corpus proceedings and provide support for private counsel handling habeas corpus petitions; authorizes the director of the resource center to hire up to 30 attorneys; increases the rate of compensation for private counsel appointed in either direct appeal or habeas corpus proceedings from \$98 to \$125 per allowable hour; and allocates funds to increase to \$25,000 the amount the court may provide for the investigation of potential habeas corpus claims.

Record certification involves the completion and correction of the trial transcript. Legislation enacted in 1996—Assembly Bill 195 (Morrow) (Stats. 1996, ch. 1086)—addresses delays in RECORD CERTIFICATION. The provisions of AB 195 shift some of the responsibility for completing and correcting the record to trial attorneys and trial judges during, and immediately following, trial—rather than waiting until after the trial is over and having the entire burden rest on the appellate lawyer. AB 195 went into effect on January 1, 1997, and applies to trials that commenced on or after that date.

New Reporting Period for Supreme Court Workload

To show trends in the workload of the state courts, fiscal year data (July 1 through June 30) is used throughout this publication. In September 1996, the Supreme Court adopted a new workload reporting period—September 1 through August 31; ultimately, this new time period will be used to report trend information about the high court's workload.

The new reporting period best delineates the flow of the court's production of opinions. The court does not hold oral argument during July and August. This reprieve permits the high court to clear its docket of pending opinions (which are required to be filed within 90 days of oral argument) and to focus on preparing calendar memoranda for future oral argument calendars.

To facilitate appropriate consideration of its cases throughout the year, the court is working to regularize the flow of opinions during its September-through-August cycle, and will not expedite treatment of cases to meet artificial fiscal or calendar year-end deadlines.

From September 1, 1996, through August 31, 1997—the Supreme Court's first full year with all present justices serving together—the court filed opinions in 99 cases, including two memorandum opinions. The opinions included 15 automatic appeals in death penalty cases and one habeas corpus proceeding arising out of a death penalty judgment. The court also disposed of about 7,200 petitions for review and petitions in original proceedings, as well as 327 routine State Bar Court disciplinary recommendations. Additionally, the court filed orders in 23 habeas corpus petitions arising out of death penalty cases.

Courts of Appeal

The Courts of Appeal are California's intermediate courts of review. Under the California Constitution and other law, a decision of a superior court may be appealed to the Courts of Appeal, except for death penalty cases, which are appealed directly to the California Supreme Court (*see discussion, page 52*). There are six APPELLATE DISTRICTS in California, with nine court sites and 18 DIVISIONS.

In 1996, the Legislature authorized five new appellate judgeships, bringing the total number of justices to 93. This was accomplished through passage of Assembly Bill 1818 (Baca) (Stats. 1997, ch. 262), which became effective January 1, 1997. (Twenty-one new trial court judgeships were also authorized by this bill.) These were the first new judgeships authorized since 1987.

The primary responsibility of the Courts of Appeal is to ensure that the law is interpreted and applied correctly and consistently in each appellate district. The Courts of Appeal hear appeals in all cases in which superior courts have ORIGINAL JURISDICTION (except capital cases) and appeals in other special circumstances as prescribed by law. Like the Supreme Court, Courts of Appeal have original jurisdiction in HABEAS CORPUS, MANDATE (or MANDAMUS), CERTIORARI, and PROHIBITION proceedings. ORIGINAL PROCEEDINGS (WRITS) from decisions of the Agricultural Labor Relations Board, Public Employment Relations Board, Workers' Compensation Appeals Board and, beginning in 1998, the Public Utilities Commission are also filed in the Courts of Appeal.

Cases brought to the Courts of Appeal are decided by three-judge panels. The courts' decisions are expressed in written OPINIONS.



Figure 3.4

Courts of Appeal Filings

Fiscal Years 1977–78 through 1996–97

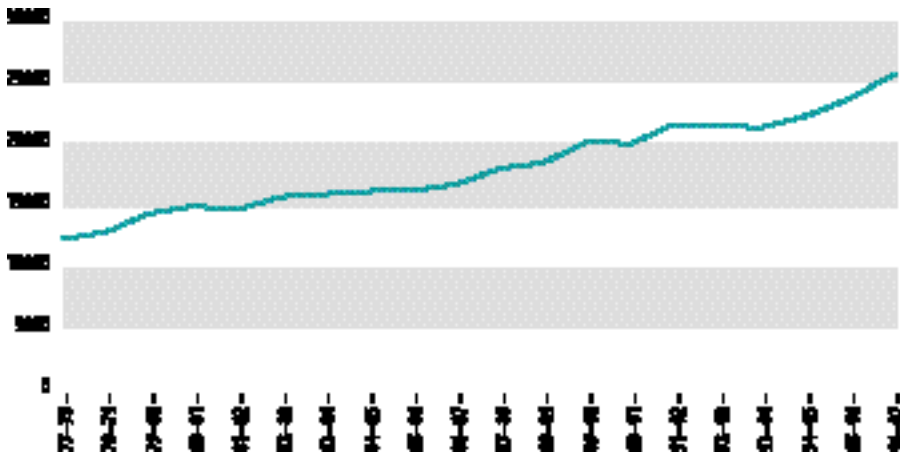


Table 3.1

90th Percentile Time* in Days

Fully Briefed to Filing of Opinion

Fiscal Years 1992–93 through 1996–97

Courts of Appeal	Civil					Criminal				
	92–93	93–94	94–95	95–96	96–97	92–93	93–94	94–95	95–96	96–97
Statewide	388	441	484	565	622	218	248	261	254	283
First District	234	280	287	309	326	206	211	204	223	250
Div 1	207	386	232	204	200	175	196	193	148	137
Div 2	298	294	444	383	398	266	271	246	260	295
Div 3	225	259	315	320	357	217	199	211	259	344
Div 4	226	207	260	300	311	128	141	174	175	172
Div 5	145	144	155	196	224	121	137	141	138	151
Second District	363	425	406	426	226	156	187	218	152	146
Div 1	183	162	141	165	126	128	119	108	107	98
Div 2	118	129	143	242	165	78	97	94	103	112
Div 3	277	355	412	440	308	193	261	335	238	172
Div 4	463	506	470	482	437	124	147	129	151	141
Div 5	224	183	205	202	199	165	160	121	119	138
Div 6	210	250	256	164	175	167	215	204	121	152
Div 7	170	193	197	216	196	149	138	161	184	170
Third District	310	367	401	413	397	197	208	258	307	336
Fourth District	416	473	567	703	818	245	319	316	280	339
Div 1	430	465	559	619	709	207	196	182	204	238
Div 2	436	552	645	671	586	281	334	312	287	251
Div 3	264	359	552	756	862	245	360	357	326	450
Fifth District	487	535	471	393	419	287	289	252	281	348
Sixth District	226	274	268	242	218	197	245	241	212	219

* See Courts of Appeal Glossary, page 100.

Table 3.2

Filings: Records of Appeal and Original Proceedings

Five-Year Percentage Growth

Fiscal Years 1992–93 through 1996–97

Courts of Appeal	FY 1992–93			FY 1996–97			Percent Change		
	Total	Records of Appeal	Original Proceedings	Total	Records of Appeal	Original Proceedings	Total	Records of Appeal	Original Proceedings
Statewide	21,471	14,308	7,163	25,760	16,881	8,879	20%	18%	24%
First District	3,599	2,337	1,262	4,068	2,616	1,452	13%	12%	15%
Second District	7,683	5,061	2,622	9,661	6,191	3,470	26%	22%	32%
Third District	2,246	1,623	623	2,536	1,704	832	13%	5%	34%
Fourth District	4,931	3,170	1,761	5,873	3,817	2,056	19%	20%	17%
Fifth District	1,727	1,226	501	2,283	1,646	637	32%	34%	27%
Sixth District	1,285	891	394	1,339	907	432	4%	2%	10%

WORKLOAD REPORT

Filings of ORIGINAL PROCEEDINGS totaled 8,879 in 1996–97, a 10 percent increase over the 8,069 filed in 1995–96. Filings of original proceedings increased 24 percent during the five-year period from 1992–93 to 1996–97 and have nearly doubled in the past two decades (from 1977–78 to 1996–97). Filings of RECORDS OF APPEAL increased 5 percent in 1995–96 from the prior fiscal year and increased 8 percent further to 16,881 in 1996–97; with this increase, there were 182 records of appeals filed per authorized justice. Filings of records of appeal increased 18 percent during the five-year period from 1992–93 to 1996–97.

There were 8,818 criminal NOTICES OF APPEAL filed in 1996–97, a slight (1 percent) increase over the 8,733 filings in 1995–96, but a 23 percent increase over the 7,195 filings in 1992–93.

Juvenile original proceedings more than doubled from 171 in 1993–94 to 364 in 1994–95, and nearly doubled again in 1995–96 to reach 678.

These dramatic increases are due to rule 39.1b, which went into effect January 1, 1995. This rule of court, which requires certain juvenile proceedings to be filed as original proceedings rather than as appeals, established a “fast track” schedule for briefing and deciding these cases. This rule was adopted to speed permanent placement of children who have been neglected or abused. In 1996–97, juvenile original proceedings filed in the Courts of Appeal decreased 8 percent from the prior year.

Rise in backlogged, pending appeals

Pending FULLY BRIEFED appeals are appeals awaiting decision in which all the legal BRIEFS have been filed. These appeals may be awaiting oral argument, but the parties have completed their briefing and most of the remaining work lies with the court. The growing number of such appeals that are backlogged at the conclusion of the fiscal year is a key measure of the courts’ ability to keep pace with caseload.



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Table 3.3

Median (50th Percentile) Time* in Days

Fully Briefed to Filing of Opinion

Fiscal Years 1992–93 through 1996–97

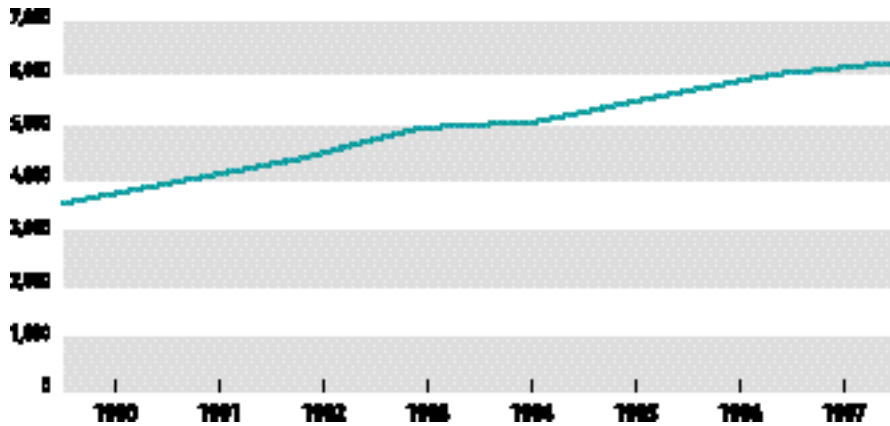
Courts of Appeal	Civil					Criminal				
	92–93	93–94	94–95	95–96	96–97	92–93	93–94	94–95	95–96	96–97
Statewide	153	183	179	179	152	107	110	115	119	119
First District	135	154	147	153	152	93	99	98	94	98
Div 1	134	176	157	124	115	93	120	110	73	76
Div 2	198	206	213	244	242	162	154	127	156	172
Div 3	138	150	172	211	202	101	100	98	124	142
Div 4	105	113	127	119	119	59	77	68	70	66
Div 5	83	94	117	113	112	75	81	93	96	96
Second District	117	134	123	119	99	70	75	76	73	75
Div 1	92	91	72	77	64	59	70	61	57	52
Div 2	74	82	81	91	90	50	63	59	63	66
Div 3	174	267	319	315	128	73	86	194	102	115
Div 4	418	438	409	418	147	71	86	82	91	90
Div 5	112	118	99	98	100	87	87	60	57	58
Div 6	140	173	146	85	97	89	79	95	69	73
Div 7	91	89	92	90	89	72	70	75	82	83
Third District	147	133	159	173	168	102	92	114	161	141
Fourth District	245	334	459	547	560	151	169	171	171	172
Div 1	310	368	484	533	617	115	101	96	116	142
Div 2	309	412	449	493	401	180	212	214	210	162
Div 3	182	280	394	637	735	174	268	246	232	344
Fifth District	372	412	278	251	303	154	140	154	160	191
Sixth District	149	216	204	149	149	136	188	164	127	125

* See Courts of Appeal Glossary, page 100.

Figure 3.6

Pending Fully Briefed Appeals in the Courts of Appeal

As of June 30, 1997



Pending fully briefed appeals have grown at an annual rate of between 3 and 13 percent since 1990. Specifically, these appeals increased 12 percent in 1990–91 from the prior fiscal year, increased 11 percent in 1991–92, increased 13 percent in 1992–93, increased 3 percent in 1993–94, increased 9 percent in 1994–95, increased 8 percent in 1995–96, and increased 4 percent in 1996–97.

As of June 30, 1996, there were 5,997 pending fully briefed appeals—68 per each of the 88 authorized justices at that time. As of June 30, 1997, there were 6,220 pending fully briefed appeals—67 per each of the 93 currently authorized justices.

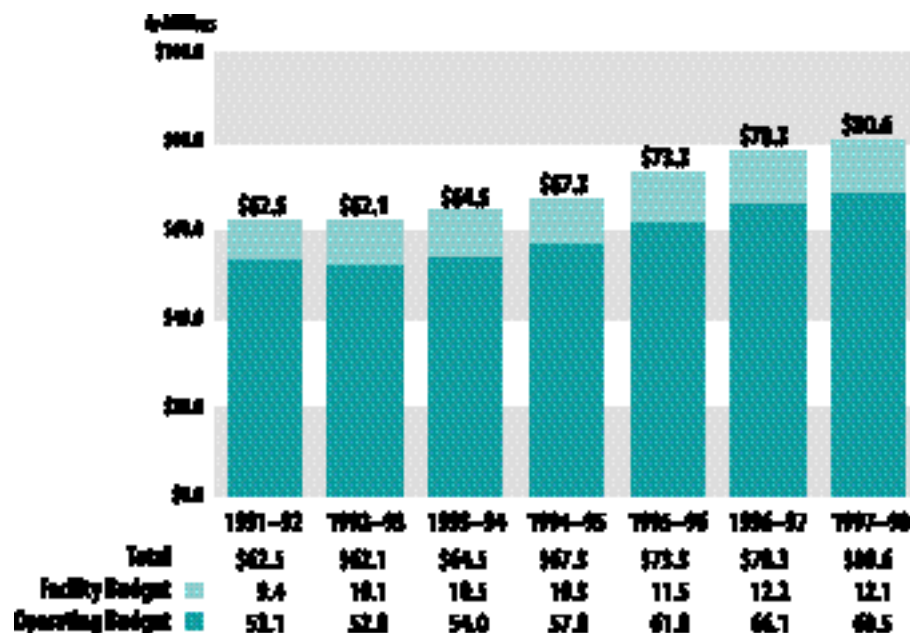
In 1995–96, the statewide MEDIAN TIME from filing a NOTICE OF APPEAL to the filing of an opinion in a civil case was 524 days; the time span for criminal appeals that fiscal year was 394 days. In 1996–97, the situation worsened: The statewide median time from the filing of a civil notice of appeal to filing of the opinion was 528 days; the time span for criminal appeals that fiscal year was 410 days.

Figure 3.7

Courts of Appeal Funding History

Fiscal Years 1991–92 to 1997–98 (Proposed)

Excludes Court-Appointed Counsel



“Three strikes” law leaves its mark

The “THREE STRIKES” LAW (*see Chapter 2, page 24*) has had an impact on court workload at all levels. The appellate courts have addressed many of the major outstanding issues regarding “three strikes,” such as judicial discretion to strike priors and using a juvenile conviction as a strike. However, in the future “three strikes” will continue to generate additional complex criminal appeals—and consume more of the appellate courts’ time and resources—as more second- and third-strike cases are resolved by jury trial rather than by guilty plea. This is true because there are potentially more appealable issues arising from a jury trial than from a guilty plea.

IMPROVING APPELLATE COURT ADMINISTRATION: HELP WITH RISING CASELOADS, LIMITED RESOURCES

The workload of the Courts of Appeal continues to rise steadily. These courts reported record-high filings in 1996–97—25,760 records of appeal and original proceedings. This was 9 percent higher than the prior fiscal year, 43 percent higher than a decade ago, and 109 percent higher than 20 years ago. Although five new appellate judgeships were authorized in 1996 (the first since 1987), filings of records of appeal have risen from 125 per authorized justice in 1987–88 to 182 per authorized justice in 1996–97.

How the Courts of Appeal can cope with an ever-increasing volume of cases without adding justices is a significant and pressing concern. Adding judicial resources to keep pace with this growth may not be possible or even desirable. In May 1997, in response to this situation, Chief Justice George appointed the Appellate Process Task Force to offer recommendations on how appellate courts can increase their efficiency without continually adding judicial resources.

The task force is charged with conducting a wide-ranging study of the appellate process to evaluate court jurisdiction, organizational structures, and court workflow. This in-depth study will evaluate various types of changes that may be necessary for the courts to dispense justice in a timely manner without the addition of more resources.

In 1996, additional progress was made toward improving appellate court administration with the completion of phase II of the Administrative Presiding Justices Advisory Committee's Appellate Resources Study. Workload standards for the clerks' offices and judicial secretarial support staff were approved by the Judicial Council in 1996 and sent to the Legislature in February 1996.

Table 3.4

Filing Growth

Fiscal Years 1992–93 through 1996–97

Courts of Appeal	Fiscal Year					5-year % growth
	92–93	93–94	94–95	95–96	96–97	
Statewide						
Total	24,195	24,694	25,775	26,912	27,681	14%
Notices of Appeal	17,032	17,575	18,362	18,843	18,802	10%
Original Proceedings	7,163	7,119	7,413	8,069	8,879	24%
District One						
Total	4,176	4,099	4,256	4,184	4,178	0%
Notices of Appeal	2,914	2,852	2,887	2,864	2,726	–6%
Original Proceedings	1,262	1,247	1,369	1,320	1,452	15%
District Two						
Total	8,534	8,924	8,800	9,609	10,166	19%
Notices of Appeal	5,912	6,243	6,020	6,548	6,696	13%
Original Proceedings	2,622	2,681	2,780	3,061	3,470	32%
District Three						
Total	2,549	2,524	2,699	2,847	2,854	12%
Notices of Appeal	1,926	1,904	2,078	2,088	2,022	5%
Original Proceedings	623	620	621	759	832	34%
District Four						
Total	5,651	5,697	6,444	6,591	6,643	18%
Notices of Appeal	3,890	4,095	4,666	4,635	4,587	18%
Original Proceedings	1,761	1,602	1,778	1,956	2,056	17%
District Five						
Total	1,805	1,980	2,145	2,223	2,318	28%
Notices of Appeal	1,304	1,412	1,631	1,625	1,681	29%
Original Proceedings	501	568	514	598	637	27%
District Six						
Total	1,480	1,470	1,431	1,458	1,522	3%
Notices of Appeal	1,086	1,069	1,080	1,083	1,090	0%
Original Proceedings	394	401	351	375	432	10%

Since then, the filings data underlying the standards produced by the workload study are updated in June of each year to reflect the most recent year's filings and are used to develop "budget change proposals," which serve as the basis for requesting additional staff from the Legislature.

Also in 1996, the Judicial Council adopted modernized rules governing the format of appellate briefs that were recommended by its Appellate Advisory Committee. The advisory committee also recommended other changes to appellate rules in response to suggestions from judges,

members of the bar, the public, and committee members. In 1997, the advisory committee is working to completely reorganize and revise the rules of appellate procedure to make them clearer and easier to use.

In May 1997, the Judicial Council adopted its long-range strategic plan for the courts (*see Chapter 4*). As part of its goal to modernize judicial administrative practices in the area of court and case management, the council is committed to increasing appellate process efficiency. ■

Counsel for Indigents: Constitutional Mandate

The state's appellate courts are required by both the California and United States Constitutions to provide an attorney for appellants if they cannot afford one in criminal felony cases and in certain civil cases. Counsel is also required for indigents in certain civil cases, including juvenile dependency and conservatorship matters.



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The California courts have created five nonprofit appellate projects to assist with their constitutional mandate to provide counsel. These appellate projects, which serve the six appellate districts as well as the state's Supreme Court, recruit (except in capital cases), supervise, and assist approximately 1,200 private attorneys who accept appointment in approximately 10,900 cases each year.

In fiscal year 1995–96, the budget for appointed counsel totaled \$46,364,867, representing 35 percent of the total budget for California's Supreme Court and Courts of Appeal. In fiscal year 1996–97, the appointed counsel budget was \$44,135,560—which is 30 percent of the total budget for the appellate courts.

Because the courts do not have control over either the number of cases brought before them or the number of people who require counsel each year, the costs of the program are not entirely under the courts' control. The Appellate Indigent Defense Oversight Advisory

Committee—appointed by Chief Justice George to oversee the operations of the appellate projects and the panel attorneys representing indigents in the Courts of Appeal—has made every effort to keep the individual case costs from growing. The average cost per case paid to panel attorneys declined from \$3,215 in 1991–92 to \$2,238 in 1995–96. The appellate project's average funding cost per appointment declined from \$1,315 in 1991–92 to \$1,071 in 1995–96.

Those costs that can be controlled are under control or have been decreased. Growth in numbers of appeals, length of record, and number of jury trials all contribute to increasing the cost of an appeal, yet these costs are not within the control of the appellate courts, the appellate projects, or the individual attorneys. These factors are responsible for the growth in the funding required for the indigent defense program.